

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

Dominik Hok Lay,  
*Plaintiff,*

v.

Civil Action No. 1:24-CV-10514-NMG

The City of Lowell, Christine P. O'Connor, Individually and in her official and supervisory capacities as the City Solicitor for the City of Lowell, Elliott J. Veloso, individually and in his official capacity as Assistant City Solicitor for the City of Lowell, Nicholas Anastasi, individually and in his official capacity as Assistant City Solicitor for the City of Lowell, Beverly Anthes, as an Election Commissioner of the City of Lowell, Zoe Dzineku, as an Election Commissioner of the City of Lowell, James Pope, as an Election Commissioner of the City of Lowell, Eileen Donoghue, as Manager of the City of Lowell,  
*Defendants.*

**DEFENDANTS' ASSENTED-TO MOTION FOR LEAVE TO FILE OVERSIZED  
MEMORANDUM OF LAW UNDER LOCAL RULE 7.1(B)(4)**

Pursuant to L.R. 7.1(b)(4), the Defendants, City of Lowell, former Lowell City Solicitor Christine P. O'Connor, former Lowell Assistant City Solicitors Elliott J. Veloso and Nicholas Anastasi, Lowell Election Commissioners Beverly Anthes, Zoe Dzineku, and James Pope, and former Lowell City Manager Eileen Donoghue (collectively "the Defendants"), hereby move for leave to file a 38-page, oversized memorandum of law in support of Defendants' motion to dismiss the Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(1) & (6). As grounds for support herein, the Defendants state the following:

1. This is a complex civil rights action brought by Lowell School Committee member Dominik Lay (hereinafter "the Plaintiff") alleging, inter alia, that the City of Lowell's Law

Department and Election Commission, unlawfully deprived the Plaintiff of his School Committee seat in violation of the Fourteenth Amendment to the United States Constitution.

2. The Plaintiff's operative complaint includes a total of 8 counts each against the City of Lowell, O'Connor, Veloso, Anastasi, Anthes, Dzinoku, Pope, and Donoghue. The Plaintiff's claims include statutory claims under 42 U.S.C. § 1983 and M.G.L. c. 12, § 11I, as well as negligence claims City as a public employer, O'Connor and Donoghue as public employees under the Massachusetts Tort Claims Act ("MTCA"), M.G.L. c. 258, § 2.

3. In responding to the Complaint, the City of Lowell, through its attorneys, has opted to represent not only the City but also the various individual defendants sued in their personal capacities.

4. The Defendants' Memorandum of Law is oversized at 38 pages, and thus is 18 pages beyond the Court's 20-page limit according to the United States District Court for the District of Massachusetts' Local Rules. *See* L.R. 7.1(b)(4) ("Memoranda Supporting or opposing allowance of motions shall not, ***without leave of court***, exceed 20 pages, double-spaced" (emphasis added)). The Defendants thus seek leave to file the brief at its current page limit.

5. Here, the Plaintiff's Complaint, and the City's Motion to Dismiss, require the undersigned counsel – on behalf of the City as a municipality, and the individual defendants – to respond to 8 common law and statutory claims, each with differing legal standards and elements. And in addressing the legal sufficiency of each claim, the City must address complex legal issues including but not limited to the *Iqbal* and *Twombly* pleading standards, the equal protection clause under the Fourteenth Amendment, property and liberty interests protected by the Fourteenth Amendment's procedural due process clause, municipal liability under § 1983, qualified immunity

for public officers under § 1983, federal question jurisdiction and supplemental jurisdiction over state-law claims, and immunity under the Massachusetts Tort Claims Act.

6. The complexity of the issues presented in the case and the number of claims included in the Plaintiff's Complaint, brought against multiple defendants represented by the same undersigned counsel, warrant the filing of an oversized brief.

7. On Wednesday March 20, 2024, counsel for the Defendants conferred with Roland L. Millard, Esq., counsel for the Plaintiff, concerning this motion. Counsel for the Plaintiff has assented to the relief requested herein.

WHEREFORE, the Defendants respectfully request that this Court respectfully request that this Court grant leave for the Defendants to file a 38-page, oversized Memorandum of Law in Support of the Defendants' Motion to Dismiss Plaintiff's Complaint under Fed. R. Civ. P. 12(b)(6).

Respectfully submitted,  
The Defendants,  
By their attorneys,

**/s/ Michael M. Broderick**

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Dated: March 20, 2024

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

I, Thomas G. Wood, Assistant City Solicitor, hereby certify that on March 20, 2024, I conferred with counsel for the Plaintiff, Roland Millard, Esq., and have attempted in good faith to resolve or narrow the issues presented in Defendants' Motion to Dismiss the Complaint under Fed. R. Civ. P. 12(b)(6). During said L.R. 7.1 conference, counsel for the Plaintiff assented to the above-captioned motion.

**/s/ Thomas G. Wood**

Thomas G. Wood, Assistant City Solicitor

**CERTIFICATE OF SERVICE**

I, Thomas G. Wood, Assistant City Solicitor, hereby certify that on March 20, 2024, I electronically filed a true and accurate copy of the foregoing document and that they are available for viewing and downloading from the Court's CM/ECF system, and that the participants in the case that are registered CM/ECF users will be served electronically by the CM/ECF system.

**/s/ Thomas G. Wood**

Thomas G. Wood, Assistant City Solicitor